

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
: Examiner: Brian P. Yenke
ARATANI, ET AL.)
: Group Art Unit: 2622
Application No.: 09/987,569)
: Confirmation No. 7348
Filed: November 15, 2001)
:
For: APPARATUS AND METHOD WITH)
RECEIVING OF BROADCAST DATA :
SIGNAL, COMMUNICATING WITH)
EXTERNAL DEVICE, AND :
CONTROLLING IMAGE TO BE)
DISPLAYED IN ACCORDANCE WITH :
COMMUNICATION) May 13, 2008

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

Sir:

This is an appeal from the final rejection of Claims 46-61, set forth in the Office Action dated September 13, 2007. A Notice of Appeal was filed on February 13, 2008.

This Brief is being filed with the fee of \$510.00, as required under 37 C.F.R. §41.20(b)(2). Any additional required fees may be charged to Deposit Account No. 06-1205.

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I. Real Party in Interest

The real party in interest is Canon Kabushiki Kaisha, the Assignee of the full and exclusive right for the territory of the United States of America in and to the invention described and claimed in the present application.

II. Related Appeals and Interferences

Appellants, Appellants' representative, and the Assignee are not aware of any other appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

III. Status of Claims

Claims 46-61 stand finally rejected. Claims 1-45 are cancelled. Appellants are appealing the rejection of Claims 46-61. The full text of the appealed claims appears in Section VIII.

IV. Status of Amendments

In response to the Final Rejection of September 13, 2007, Appellants filed a Request for Reconsideration. An Advisory Action issued on January 14, 2008, which indicated that the Request for Reconsideration was considered, but did not place the application in condition for allowance. Pending Claims 46-61 have not been amended since the Final Rejection of September 13, 2007.

V. Summary of Claimed Subject Matter

Television and satellite broadcasting stations have begun to broadcast television signals which include data signals. With such broadcasting, the data may be superimposed on a carrier frequency and transmitted using the broadcasting radio wave.

According to one aspect, the present invention relates to systems and methods of interconnecting an apparatus for receiving a television signal and a printer such that (1) document data provided in a broadcast signal may be used in communicating with the printer and (2) information relating to the communication with the printer may be displayed to a viewer. In particular, the document data provided in the broadcast signal may include a script for acquiring status information from the connected printer. In addition, the document data may also include various status display information for indicating a status of the printer, where the status display information to be displayed is identified based on status information acquired from the printer.

With the invention, the script extracted from the broadcast signal may be executed to acquire status information from the printer. Based on the acquired status, corresponding status display information (also provided in the broadcast document data) may be identified from the plurality of such information and displayed to a user. Thus, the present invention uses data from a television broadcast to both query a printer concerning its status and provide various display information which may be displayed to a viewer depending on the result of the status inquiry.

For instance, the script from the broadcast signal may be used to query the printer and, based on the result of the query, to alert the viewer that a print request is completed, a sheet size for printing is not available, there is a paper jam, etc. In yet other embodiments, the broadcast may include document data which includes a user guide for the printer so that the viewer may learn how to use a new printer, replace an ink cartridge, etc., through display information provided on the viewer's television.

The document data may be provided in a markup language, such as that shown in Figures 9-11 of the subject application. The markup language may provide both the script (e.g., “script language= ...”) and the display information (e.g., “status: printer is not compatible with required sheet size”).

a. Independent Claim 46

Independent Claim 46 is generally directed to a television receiving apparatus which is (a) connected to a printer in a manner to allow the apparatus to communicate with the printer and (b) capable of sending to the printer data obtained from contents data having been sent multiplexed in a broadcast. The receiving apparatus includes extracting means for extracting document data which is described in a markup language and included in the contents data (see the transport decoder 103, at ¶¶ 0053, 0065 and 0069). The document data includes (a) a script for acquiring status information of the printer and (b) a plurality of status display information (see ¶¶ 0066-67 and Figs. 9-11). The apparatus also includes generating means for generating display image data using the document data extracted by the extracting means (see the CPU 18, at ¶¶ 0065 and 0070). Executing means executes a process for acquiring the status information of the printer and has means for executing the script (see the CPU 18, at ¶¶ 0065, 0068 and 0083-85). In addition, in accordance with the acquired status information, the executing means executes a process for identifying status display information indicating a status of the printer from the plurality of status display information included in the document data (see the CPU 18, at ¶¶ 0081-82 and Figs. 9-11). Furthermore, the generating means reflects, in the display image data, the status display information identified by the executing means (see the CPU 18, ¶¶ 0081-85).

b. Independent Claim 51

Independent Claim 51 is directed to a television signal receiving method for use with a printer. The method includes a step of extracting document data which is described in a markup language and included in contents data (see ¶¶ 0053, 0065 and 0069). The contents data is sent multiplexed in broadcast by a broadcast apparatus (see ¶ 0005). The document data includes (a) a script for acquiring status information of the printer and (b) a plurality of status display information (see ¶¶ 0066-67 and Figs. 9-11). The method also generates display image data which can be displayed on a display unit, using the extracted document data (see ¶¶ 0065 and 0070).

In addition, the method executes a process for acquiring the status information of the printer as well as a process for, in accordance with acquired status information, identifying status display information indicating a status of the printer from the plurality of status display information (see ¶¶ 0065, 0068 and 0081-85, and Figs. 9-11). That executing step also executes the script (see ¶ 0067). The generating step reflects, in the display image data, the status display information identified in the executing step (see ¶¶ 0081-85).

c. The Dependent Claims

The dependent claims depend, directly or indirectly, from independent Claims 46 and 51.

Dependent Claims 47 and 52 generally recite that the contents data further includes style format data defining a display layout of the display image data. The style format data also defines a status display area for displaying the status display information in the display image data (see ¶¶ 0071 and 0081).

Dependent Claims 48 and 53 generally recite the use of a timer for executing the script at a predetermined period (see ¶ 0089).

Dependent Claims 49 and 54 are generally directed to acquiring status information of the printer at a predetermined period by starting an operation of a timer after the contents data for printing is sent to the printer (see ¶ 0089).

Dependent Claims 50 and 55 are generally directed to use of a command to switch the power of the printer on after the status information of the printer is acquired (see ¶ 0080).

Claim 56, which depends from Claim 46, generally recites that document data include printing interface user data, which is used to provide a user interface describing a printing function (see ¶ 0070).

Claim 57, which depends from Claim 46, generally recites that the document data include print button text and that the generating means provide a print button image in accordance with the print button text (see ¶ 0076).

Claims 58-61 each depend from Claim 46 and each recite the type of text that is included in the plurality of status display information. Claim 58 recites text for informing a user that the printer is ready to print (see ¶ 0085). Claim 59 recites text for informing a user that the printer has completed printing (see ¶ 0091). Claim 60 recites text for informing a user that the printer is not compatible with a requested paper size (see ¶ 0085). Claim 61 recites text for informing a user that the printer has stopped printing because of an error (see ¶ 0091).

VI. Grounds of Rejection To Be Reviewed On Appeal

Whether Claims 46-61 should be rejected under 35 U.S.C. § 103 over U.S. Patent Application Publication No. 2003/0164976 (Ihara et al.) in view of U.S. Patent No. 6,426,778 (Valdez, Jr.) and Appellants' own specification, given various deficiencies in the bases for the rejections. In particular, Appellants ask review of whether the reliance on Ihara et al. and Valdez, Jr. is proper in view of the fact that (1) neither document suggests the script and plurality of status display information provided in the broadcast signal and used in the manner recited in the claims, and (2) the Examiner provides no indication of how those documents could suggest such features other than unsupported, conclusory statements. In addition, Appellants ask review of whether the reliance on Appellants' own specification is proper where the cited sections of the specification either (1) do not recite the features for which they are relied upon or (2) are directed to the Appellants' *own* embodiments.

VII. Argument

a. Summary

While the Examiner cites Ihara et al. and Valdez, Jr. as teaching features of the present invention, rather than identifying sections of those documents that support the Examiner's position, the Examiner relies on conclusory statements. In fact, Ihara et al. and Valdez, Jr. do not describe or suggest many features of the present invention.

In addition, the rejection relies on Appellants' own specification as prior art; however, the majority of the paragraphs cited by the Examiner are descriptions of Appellants' *own* embodiments. The remainder of the cited paragraphs do not describe the features alleged.

For these reasons and others discussed below, Appellants submit that the rejection of Claims 46-61 under 35 U.S.C. § 103 is improper.

b. The Law

Consistent with case law, Sections 2141-43 of the MPEP provide guidelines for determining obviousness under 35 U.S.C. § 103 in view of the recent Supreme Court decision, KSR International Co. v. Teleflex Inc., 550 U.S. ___, 82 USPQ2d 1385 (2007). As discussed in those sections "[k]nowledge of applicant's disclosure must be put aside The tendency to resort to 'hindsight' based on applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." MPEP 2142.

In addition, "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

In this case, however, the Examiner relies on impermissible hindsight and conclusory statements when, in fact, none of the relied upon prior art teaches specific features of the invention. Thus, as established below, there is no *prima facie* case of obviousness, and the 35 U.S.C. § 103 rejection of Claims 46-61 is improper.

c. Independent Claims 46 and 51

As discussed above, the independent claims generally recite that a broadcast signal includes document data comprised of (a) a script for acquiring status information of the printer and (b) a plurality of status display information. The script is executed and the status information of the printer is acquired. Based on that acquired information, the invention identifies which status display information (of the plurality included in the broadcast) is to be displayed.

i. Ihara et al.

Ihara, et al. describes a set top box 3 that receives a broadcast signal. The set top box 3 includes a data conversion unit 13 that communicates with a printer device 5. The patent is directed to enabling proper printing of an image where the communication is dictated by the Institute of Electrical and Electronics Engineers 1394 standard (“IEEE 1394”).

As acknowledged by the Office Action, Ihara et al. does not describe that a broadcast received by the set top box 3 includes document data described in a markup language. Appellants also submit that the document does not even describe the inclusion in the broadcast of status display information. Further, that patent does not detail the inclusion in the broadcast of a script for obtaining a status of the printer.

Consequently, Ihara, et al. cannot describe or suggest that broadcast data in a markup language includes both a script for acquiring status information from a printer and

a plurality of status display information. It also follows that Ihara et al. also cannot describe the identification of status display information, from the plurality of status display information in the broadcast, based on the acquired status of the printer.

In other words, a document that does not describe that a script and a plurality of status display information are provided in a broadcast signal cannot suggest the use of such broadcast data to query a printer and display the printer's status to a user. The rejection acknowledges as much by admitting that Ihara et al. does not describe the broadcast of such data in a markup language, as recited in the independent claims.

ii. Valdez, Jr.

The Examiner relies on Valdez, Jr. to cure the deficiencies of Ihara et al. The Examiner cites Valdez, Jr. as describing the concept of a markup language being received within a television broadcast. The Examiner reasons that because Valdez, Jr. describes the broadcast of a markup language it follows that:

Thus when receiving the mark up language data the data includes a script for acquiring status information of the printer in addition to status display corresponding to such status which is used to determine whether the printer can execute such printing.

Office Action dated September 13, 2007, page 4, lines 14-17.

There is, however, no basis for this conclusion.

That Valdez, Jr. discusses the broadcast of a markup language does not establish, or even suggest, that the broadcast data includes both a script for acquiring status information of a printer and status display information. Furthermore, the mere discussion of a markup language does not suggest that specific display information from the broadcast is identified for display based on the acquired status of a printer.

Valdez, Jr. is directed to a system and method for providing a markup language in a motion video signal. The patent discusses displaying content described in the markup

language concurrently with the motion video, and details packeting methods and structures for accomplishing that goal.

While Valdez, Jr. mentions a printing device, it does not describe *any* communication with the printer, let alone the use of content from a broadcast markup language to communicate with the printer. Valdez, Jr. simply states that a “computer system also includes one or more output devices 107, such as ... printing devices (not shown)”. Valdez, Jr., at col. 5, lines 8-10. The document does not discuss any use of the broadcast markup language to acquire the status of a printer or to select display information based on such an acquisition.

Yet, the Examiner concludes that Valdez, Jr. describes the above-discussed claim features simply because the document discusses the broadcast of a markup language. The Examiner draws the conclusion without a single citation to specific support for the position and without regard to the fact that Valdez, Jr. fails to detail any communication with a printer.

As required by MPEP 2141 and the case law discussed above, the Examiner must indicate with specificity why the applied reference suggests the features of the invention. (“The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” MPEP 2141(III).) The Examiner simply has not, and cannot, do that with respect to Valdez, Jr.

iii. Appellants’ Own Disclosure

In addition to Ihara, et al. and Valdez, Jr., the Examiner cites to the Appellants’ own disclosure to establish the case for obviousness. While an Examiner may cite to an applicant’s description of prior art when formulating an obviousness rejection, the sections relied upon must admit that the disclosure is “prior art.” MPEP 2129. In this case, over half of the paragraphs cited to by the Examiner are discussions of actual embodiments of

Appellants' own invention. Specifically, ¶¶ 0057, 0059, 0068, and 0080 relied on by the Examiner are in the Description of the Preferred Embodiments section of the application. The Examiner's reliance on Appellants' own embodiments in formulating the rejection is completely without merit. The Appellants' have not admitted that such paragraphs merely describe the prior art and reliance on the sections is impermissible hindsight.

Furthermore, with respect to the paragraphs cited by the Examiner in the Background of the Invention section of the specification (¶¶ 0004, 0005, and 0009), such paragraphs merely discuss television receivers that receive broadcast content. Those paragraphs do not discuss the claim features discussed above, let alone admit that such features of the claims are prior art. Specifically, a review of ¶¶ 0004, 0005, and 0009 establishes that they do not discuss that a markup language broadcast to a television receiver includes both a script for acquiring status information of a printer and a plurality of status display information. Paragraph 0004 discusses the construction of a television receiver. Paragraph 0005 discusses that "data" may be included in a broadcast. Paragraph 0009 discusses that broadcast data, such as a script, may be provided in a markup language, but does not describe a specific function of such a script.

Further, those paragraphs do not discuss that status display information indicating a status of the printer is identified, from broadcast data, based on an acquired status of the printer.

iv. Conclusion

For the foregoing reasons, Appellants submit that Ihara, et al., Valdez, Jr., and Appellant's Background of the Invention, taken alone or in combination, fail to disclose or suggest at least the features of (1) extracting document data broadcast by a broadcasting apparatus, which data is described in a markup language, the document data including (a) a script for acquiring status information of a printer and (b) a plurality of status display

information, (2) acquiring the status information of the printer, and (3) identifying status display information indicating that status from the plurality of status display information included in the document data, as generally recited in independent Claims 46 and 51.

d. Dependent Claims 47 and 52

Independent Claims 47 and 52 generally recite that the contents data provided in the broadcast includes style format data defining a display layout and defining a status display area.

The Examiner takes the position that, because IEEE 1394 provides a standard protocol for communication between a printer and a computer, such standard renders obvious all of the recited communications listed in any of the dependent claims. Appellants traverse this position.

As stated in the primary reference relied on by the Examiner, Ihara, et al., IEEE 1394 “defines physical and electrical standards of connectors provided in respective interconnected equipment.” Ihara et al., at ¶ 0004. The Examiner takes the position that because IEEE 1394 allows for communication between devices, all such communications would be obvious in view of the standard itself. Accepting the Examiner’s position would preclude patent protection on any communication system that operates using an established standard no matter how novel the actual communication method. This position is simply untenable.

Furthermore, “[t]he key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” MPEP 2141(III). The Examiner has provided no such articulation. In fact, not only has the Examiner failed to cite to any portion of the standard, the record does not even suggest the Examiner has actually obtained a copy of the standard.

Instead, the Examiner provides only the blanket statement that because a printer and computer can communicate using the IEEE 1394 standard, particular communications using that standard would be obvious. “[R]ejections on obviousness cannot be sustained by mere conclusory statements.” *In re Kahn*, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). The rejection of Claims 47 and 52, as well as all of the dependent claims, fails in this regard.

Furthermore, dependent Claims 47 and 52 recite that contents data sent multiplexed in broadcast by a broadcasting apparatus include specific data, namely, style format data which defines both a display layout and a status display area. The IEEE 1394 standard defines physical and electrical connectors of interconnected equipment. It does not dictate what combination of data is to be sent or the manner in which the data is to be used. In addition, Appellants submit that the protocol does not suggest that the data be received in a television broadcast or used to decide what information from a television broadcast to display.

Accordingly, Appellants request withdrawal of the rejection of dependent Claims 47 and 52.

e. Dependent Claims 48 and 53

Dependent Claims 48 and 53 generally recite that a timer is used to execute the script at a predetermined period.

Appellants submit that the mere existence of a standard (IEEE 1394) for the interconnection of equipment does not render obvious the use of a timer for executing a script received in a television broadcast. Further, the Examiner provides no clear rationale for why such a protocol would obviate the recited features, as discussed above.

f. Dependent Claims 49 and 54

Dependent Claims 49 and 54 depend from Claims 48 and 53, respectively, discussed above. Dependent Claims 49 and 54 further define the invention such that status information of the printer is acquired at a predetermined period by starting an operation of a timer after the contact data is sent to the printer.

Appellants assert that the acquisition of status information of a printer at a predetermined period based on the start of operation of the timer is not inherent to the use of a standard for communication between devices. Furthermore, the Examiner has provided no basis for arguing that such an operation is defined or suggested by the IEEE 1394 standard. Thus, this rejection of dependent Claims 49 and 54 is improperly based on a conclusory statement.

g. Dependent Claims 50 and 55

Dependent Claims 50 and 55 generally recite that the invention includes a command to switch the power of the printer on after status information of the printer is acquired. Appellants respectfully submit that there is no basis for assuming that a standard for communication between devices suggests that, with respect to execution of a script sent in a television broadcast, there is provided a command to turn on a printer after status information is acquired. Specifically, these claims recite details concerning the manner of acquisition of status information and the control of the power of the printer based on such acquisition. That the acquisition of printer information may take place using an established standard does nothing to suggest the details of the recited operation.

Accordingly, Appellants request withdrawal of the rejection of dependent Claims 50 and 55.

h. Dependent Claim 56

Dependent Claim 56 depends from independent Claim 46 and generally recites that the document data includes data used to provide a user interface describing a printing function to be carried out.

Again, the Office Action merely provides a conclusory statement that a standard for communication between devices renders obvious all of the dependent claims. Appellants submit, however, that the inclusion, in a television broadcast, of data for providing a user interface describing a printing function is not suggested by the IEEE 1394 standard.

i. Dependent Claim 57

Dependent Claim 57 depends from independent Claim 46 and generally recites that the document data further includes print button text to provide a print button image in the display image.

For the reasons discussed above, Appellants submit that the inclusion in a television broadcast of data for providing a print button image is not contemplated by the IEEE 1394 standard.

j. Dependent Claim 58

Dependent Claim 58 depends from independent Claim 46 and generally recites that the status display information comprises text for informing a user that the printer is ready to print.

Again, the Office Action merely provides a conclusory statement that a standard for communication between devices renders obvious all of the dependent claims. Appellants submit that the inclusion in a television broadcast of data for providing text indicating that a printer is ready to print is not contemplated by the IEEE 1394 standard.

j. Dependent Claim 59

Dependent Claim 59 depends from independent Claim 46 and generally recites that the status display information includes text informing a user that the printer has completed printing.

For the reasons discussed above, Appellants submit that the inclusion in a television broadcast of text for informing a user that printing is complete is not contemplated by the IEEE 1394 standard.

l. Dependent Claim 60

Dependent Claim 60 depends from independent Claim 46 and generally recites that the status display information includes text informing a user that the printer is not compatible with the requested paper size.

Appellants submit that the inclusion in a television broadcast of text for indicating that a printer is not compatible with the request paper size is not contemplated by the IEEE 1394 standard.

m. Dependent Claim 61

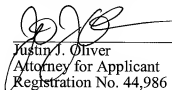
Dependent Claim 61 depends from independent Claim 46 and generally recites that the status display information includes text informing a user that the printer has stopped printing because of an error.

Again, the inclusion in a television broadcast of text indicating that a printer has stopped printing is not contemplated by the IEEE 1394 standard.

CONCLUSION

As discussed above, the Examiner relies on conclusory statements not supported by the cited documents and improper hindsight based on citation to Appellants' own embodiments as prior art. Thus, for the foregoing reasons, Appellants respectfully submit that the 35 U.S.C. §103(a) rejection of record is deficient and request reversal of the rejection.

Respectfully submitted,



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VIII. Claims Appendix

46. A television signal receiving apparatus (a) connected to a printer in a manner to allow the apparatus to communicate with the printer and (b) capable of sending to the printer data obtained from contents data, the contents data having been sent multiplexed in broadcast by a broadcasting apparatus and received by said television signal receiving apparatus, said television signal receiving apparatus comprising:

extracting means for extracting document data which is described in a markup language and included in the contents data, the document data including (a) a script for acquiring status information of the printer and (b) a plurality of status display information;

generating means for generating display image data which can be displayed on a display unit, using the document data extracted by said extracting means; and

executing means for executing a process for acquiring the status information of the printer as well as a process for, in accordance with the acquired status information, identifying status display information indicating a status of the printer from the plurality of status display information included in the document data, said executing means comprising means for executing the script,

wherein said generating means reflects, in the display image data, the status display information identified by said executing means.

47. An apparatus according to claim 46, wherein the contents data further includes style format data defining a display layout of the display image data and the style format data defines a status display area for displaying the status display information in the display image data.

48. An apparatus according to claim 46, wherein said executing means has a timer for executing the script at a predetermined period.

49. An apparatus according to claim 48, wherein said executing means acquires status information of the printer at a predetermined period by starting an operation of the timer after the content data for printing is sent to the printer.

50. An apparatus according to claim 46, wherein said executing means includes a command to switch the power of the printer on after the status information of the printer is acquired.

51. A television signal receiving method for use with a printer, said method comprising the steps of:

extracting document data which is described in a markup language and included in contents data, the contents data having been sent multiplexed in broadcast by a broadcasting apparatus, the document data including (a) a script for acquiring status information of the printer and (b) a plurality of status display information;

generating display image data which can be displayed on a display unit, using the document data extracted by said extracting step; and

executing a process for acquiring the status information of the printer as well as a process for, in accordance with the acquired status information, identifying status display information indicating a status of the printer from the plurality of status display information included in the document data, said executing step comprising a step of executing the script,

wherein said generating step reflects, in the display image data, the status display information identified by said executing step.

52. A method according to claim 51, wherein the contents data includes style format data defining a display layout of the display image data and the style format data defines a status display area for displaying the status display information in the display image data.

53. A method according to claim 51 wherein said executing step uses a timer for executing the script at a predetermined period.

54. A method according to claim 53, wherein said executing step acquires status information of the printer at a predetermined period by starting an operation of the timer after the content data for printing is sent to the printer.

55. A method according to claim 51, wherein said executing step includes a command to switch the power of the printer on after the status information of the printer is acquired.

56. An apparatus according to claim 46, wherein the document data further comprises printing interface user data, used to provide a user interface describing to a user of the apparatus a printing function to be carried out.

57. An apparatus according to claim 46, wherein the document data further comprises print button text, and

wherein said generating means further reflects in the display image data a print button image in accordance with the print button text.

58. An apparatus according to claim 46, wherein the plurality of status display information included in the document data comprises text informing a user of the apparatus that the printer is ready to print.

59. An apparatus according to claim 46, wherein the plurality of status display information included in the document data comprises text informing a user of the apparatus that the printer has completed printing.

60. An apparatus according to claim 46, wherein the plurality of status display information included in the document data comprises text informing a user of the apparatus that the printer is not compatible with a requested paper size.

61. An apparatus according to claim 46, wherein the plurality of status display information included in the document data comprises text informing a user of the apparatus that the printer has stopped printing because of an error.

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

None.

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